

	Bescheld/Protokoll (Anlage)	Communication/Minutes (Annex)	Notification/Procès-verbal (Annexe)
	Datum Date Date	Blatt Sheet Fausille	Anmelde-Nr.: Application No.: Demande n°:
	13.08.2004	1	01 959 457.1

The examination is being carried out on the following application documents:

#### Description, Pages

1, 2, 4-22	as originally filed			
3, 3a	received on	09.03.2004	with letter of	08.03.2004

#### Claims, Numbers

1-33	received on	09.03.2004	with letter of	08.03.2004
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#### Drawings, Sheets

1/8-8/8	as originally filed
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The following documents (D) are referred to in this communication:

D1: XP002191242  
D2: XP010376047  
D3: XP002191243

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The amendments filed with the letter dated 08.03.2004 introduce subject-matter which extends beyond the content of the application as filed, contrary to Article 123(2) EPC. The examining division can neither find support in the application as originally filed for the subject-matter specified in independent claims 1 and 17-19 nor for the subject-matter defined in dependent claims 2-16 and 20-33.

However, if the Applicant considers some or all of the amendments filed to be supported by the application as originally filed, the Applicant is requested to clearly identify the amendments carried out (including further amendments made to overcome the below mentioned clarity problems), irrespective of whether they concern amendments by addition, replacement or deletion, and to indicate the claims, passages of the description and the figures of the application as originally filed


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on which these amendments are based, Guidelines E-II, 1.

## II

Despite the above stated objections due to Article 123(2) EPC it is further noted that the present application does not meet the requirements of Article 84 EPC:

- 1 The use of the expression "In a server farm comprising a plurality of interconnected information servers for responding to information requests and a network switch" in claims 1 and 19 makes it unclear whether protection is sought for the whole server farm or only for the method steps defined in claim 1 and performed by the flow means of the switch as specified in claim 19, Guidelines C-III 4.8b. Furthermore, in claims 1 it is unclear if the method is performed by the interconnected information servers, by the network switch or by other devices, Guidelines C-III 4.8b.
- 2 The following terms lack an antecedent:
  - "on first information in at least one of the selected parts" in claims 1 and 19;
  - "selected first content" in claim 1;
  - "stored content" in claim 1;
  - "the first content" in claim 1;
  - "selected information" in claim 19;
  - "performing/perform the steps of claim 1" in claims 17 and 18: is the method of claim 1 performed ?
- 3 The following expression used in the description renders the scope of the claims unclear: "a method according to [...] claim 19" on page 3a: there is no method specified in claim 19, claim 19 is an apparatus claim specifying a network switch.
- 4 Furthermore, the dependent claims contain a variety of unclear references caused by using "the" or "said" for features which were not defined previously or caused by using different expressions for the same features or using the same expression for different features, contrary to Rule 35(13) EPC. In addition, the claims include expressions for features different to the expression used in the description for the same features, Rule 35(13) EPC. Rule 35(13) EPC requires that the terminology shall be consistent throughout the application.


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## III

The following is further noted: If the subject matter of claims 1 and 19 would be seen as supported by the description and inventive, they do not appear as linked to the further claims so as to form a single general inventive concept, Article 82 and Rule 30 EPC, because the common features of claims 1 and 19 do not involve an inventive step, Article 56 EPC, regarding D1 or D2 as already mention in the last office communication dated 28.10.2003. **To assure unity in the sense of Article 82 and Rule 30 EPC, the Applicant is requested to file a single independent method claim, Rule 29(2) EPC, and a single independent apparatus claims, Rule 29(2) EPC, including apparatus features corresponding to all method features of the single independent method claim.**

It is not at present apparent which part of the application could serve as a basis for a new, allowable claim. Refusal of the application under Article 97(1) EPC is therefore to be expected. Should the applicant nevertheless regard some particular matter as patentable, the following outstanding matters should also be attended to:

- 1 If a new set of claims comprising only one independent claim per category, Rule 29(2) EPC, is filed, **these independent claims should be drafted in the two-part form, Rule 29(1) EPC, vis-à-vis the closest prior art D1 and D2 to identify the technical feature which is considered to represent the contribution over the closest prior art D1 and D2.**
- 2 To meet the requirements of Rule 27(1)(b) and © EPC, the documents D1 and D2 should be acknowledged in the description, the technical problem solved by the characterising portion of the independent claims should be mentioned and any advantageous effects of the subject-matter of the independent claims should also be stated with reference to the closest prior art as described in D1 and D2. **The mere use of the EPO-internal XP numbers should be avoided and the documents should be acknowledged in the description by their publication information as given in the European Search report of the present application.**
- 3 The description should be adapted to the wording of all independent claims, Rule 27(1)(c) EPC.
- 4 Reference signs are missing in all claims, Rule 29(7) EPC.
- 5 Care should be taken not to add subject-matter to the claims which extends beyond the content of the application as files, Article 123(2) EPC.
- 6 If amendments are filed, in order to facilitate the examination of the conformity of the amended application with the requirements of Article 123(2) EPC, the Applicant is requested to clearly identify the amendments carried out, irrespective of whether they concern amendments by addition, replacement or

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deletion, and to indicate the passages of the application as filed on which these amendments are based, Guidelines E-II, 1.